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Attorneys for Plaintiff

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA, ) CR No. 3-07-70396-JL  
Plaintiff, ) [PROPOSED] ORDER AND STIPULATION  
v. ) EXCLUDING TIME FROM AUGUST 30,  
JEFFREY BENJAMIN HARRISON, ) 2007 TO SEPTEMBER 17, 2007  
Defendant. )

With the agreement of the parties, and with the consent of the defendant, the Court enters this order extending the time for the preliminary hearing under Federal Rule of Criminal Procedure 5.1, and extending the 30-day time period for indictment and excluding time under the Speedy Trial Act (18 U.S.C. § 3161) from August 30, 2007 to September 17, 2007. The parties agree, and the Court finds and holds, as follows:

1. The defendant is presently charged by criminal complaint for a violation of 18 U.S.C. §2252(a)(4)(B) and (a)(1). Currently, the matter is scheduled for a preliminary examination or arraignment on September 17, 2006.

1       2. The parties request and stipulate herein that: (a) with the defendant's consent, the twenty-  
2 day time limit for a preliminary hearing or indictment under F.R.Crim.P. 5.1(a), (c), and (d) be  
3 extended; and (b) time be excluded from calculation of the thirty-day time limit for information  
4 or indictment under 18 U.S.C. § 3161(b).

5       3. The parties make this request because the United States has provided and will continue to  
6 make discovery available to defense counsel and thus defense counsel needs time to review those  
7 materials, meet with the defendant and determine how to proceed. Specifically, defense counsel  
8 and the United States continue to discuss whether a pre-charge disposition is appropriate. Only  
9 after evaluating the evidence will counsel be in a position to evaluate what disposition is an  
10 appropriate one. Defense counsel also believes it is his best interest to negotiate the case pre-  
11 indictment, and he cannot do that without evaluating the evidence. Accordingly, the extension  
12 and exclusion are required for effective preparation of defense counsel.

13       3. The Court finds that there is good cause for the extension under F.R.Crim.P. 5.1, and the  
14 exclusion under 18 U.S.C. § 3161, and that the ends of justice served by granting this  
15 continuance outweigh the best interests of the public and of the defendant in a speedy trial and  
16 the prompt disposition of criminal cases. 18 U.S.C. § 3161(h)(8)(A). The Court further finds  
17 that failure to grant the continuance would deny counsel for all parties reasonable time necessary  
18 for effective preparation taking into account the exercise of due diligence under 18 U.S.C. §  
19 3161(h)(8)(B)(iv).

20       4. Accordingly, and with the consent of the defendant, the Court (1) sets a date before the  
21 duty magistrate judge on September 17, 2007, at 9:30 a.m., for setting a date for preliminary  
22 hearing and (2) orders that the period from August 30, 2007, to September 17, 2007, be excluded  
23 from the time period for preliminary hearings under Federal Rule of Criminal Procedure 5.1 and  
24 from Speedy Trial Act calculations under 18 U.S.C. § 3161(h)(8)(A) & (B)(iv).

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1 IT IS SO STIPULATED.  
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3 DATED: SEPTEMBER 14, 2007

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5 /S/  
6 JOSHUA B. EATON  
7 Assistant United States Attorney

8 DATED: SEPTEMBER 14, 2007

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10 /S/  
11 EDWIN PRATHER  
12 Attorney for JEFFREY HARRISON

13 IT IS SO ORDERED.  
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15 DATED: \_\_\_\_\_

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17 THE HON. JOSEPH C. SPERO  
18 United States Magistrate Judge  
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